

IN THE MATTER OF The Ontario Human  
Rights Code, 1961-62,

AND IN THE MATTER OF the complaints  
of Owen Barnes, Arnold L. Blair,  
Joseph Neblett, Herbert Telphia,  
Gifford Walker and Stanley Williams  
in which they allege that they were  
denied employment opportunity on the  
basis of their race and colour by  
Local Union 46 of the United  
Association of Journeyman and  
Apprentices of the Plumbing and  
Pipefitting Industry of the United  
States and Canada and the M.W.  
Kellogg Company of New York.

Board of Inquiry

Professor H.W. Arthurs, Chairman

For the Ontario Human Rights Commission

E. Marshall Pollock, Counsel  
H. Sohn, Asst. Director

For Local Union 46, United Association of Journeymen  
and Apprentices of the Plumbing and Pipefitting Industry  
of the United States and Canada

Lawrence Arnold, Counsel

For M.W. Kellogg Co.

R.A. Smith, Q.C., Counsel

For the Jamaican-Canadian Association

Mel Thompson, President

Toronto, April 29, 1968.



I was appointed by the Hon. Dalton C. Bales, Minister of Labour, on March 4, 1968, to inquire into certain complaints of discrimination in employment against M.W. Kellogg Co. of New York, Local Union 46, United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, and six named individuals who were, respectively, officers of the Local Union and employees of the company.

On the day appointed for the hearing, I was advised that a settlement of the complaint had been negotiated between the complainants and the Human Rights Commission, on the one hand, and the Local Union and the company, on the other. The terms of the settlement were filed with me and explained to me. I find them entirely fair. Accordingly, I recommend to the Commission that, pursuant to the terms of settlement, no further action be taken in respect of the complaints except as provided therein. In the light of the complete and unequivocal repudiation by both the Local Union and the company of any future act of discrimination, and in the light of the full compensation paid to the complainants, I am convinced that both the public interest and the private interest of the complainants has been vindicated.

At the hearing, some question arose as to the effect of a settlement by the company and the Local Union upon the six individuals names as respondents. Counsel for the Commission read a statement indicating that the Commission had no intention of proceeding further in relation to these individuals, and proposed to withdraw the complaints against them, subject to my approval. I strongly support this position.

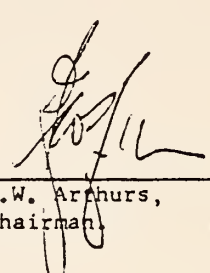
One of the individuals concerned asked permission to make a statement at the conclusion of the hearing, but in view of the fact that the complaint was withdrawn, I declined to permit him to do so. However, I indicated that I would record in my report to the Commission that, so far as I am concerned, each of these individuals stands cleared of any charges made against him in a personal capacity. It is unfortunate, although perhaps unavoidable, that the names of these individuals should be widely publicized at the time the complaint is filed, but that corresponding



notoriety seldom attaches to the withdrawal of the complaint, especially where its circumstances were not made the subject of proof and challenge in an open hearing. Be this as it may, I do not believe that I can do more than to reiterate that the withdrawal of the complaint necessarily terminates these proceedings, and leaves the case against these individuals totally unproven.

All of which is respectfully submitted.

May 18<sup>th</sup>, 1968.



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H.W. Arthurs,  
Chairman.



AND IN THE MATTER OF the complaints  
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MEMORANDUM OF AGREEMENT

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AND IN THE MATTER OF the complaints  
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Pipefitting Industry of the United  
States and Canada and the M. W.  
Kellogg Company of New York.

MEMORANDUM OF AGREEMENT

BETWEEN:

The Ontario Human Rights Commission

- and -

Local Union 46  
of the  
United Association of Journeymen and Apprentices  
of the Plumbing and Pipefitting Industry  
of the United States and Canada  
and the  
M. W. Kellogg Company

THIS AGREEMENT WITNESSETH THAT in consideration of  
the discontinuance of these proceedings by the Ontario  
Human Rights Commission (hereinafter referred to as the  
Commission) and Owen Barnes, Arnold L. Blair, Joseph  
Neblett, Herbert Telphia, Gifford Walker and Stanley  
Williams (hereinafter referred to as the complainants),  
the M. W. Kellogg Company of New York (hereinafter referred  
to as the Company) and Local Union 46 of the United Associ-  
ation of Journeymen and Apprentices of the Plumbing and  
Pipefitting Industry of the United States and Canada  
(hereinafter referred to as the Union) hereby affirm and  
declare that we subscribe to and support the Provisions of  
the Ontario Human Rights Code and the Age Discrimination  
Act and undertake AS FOLLOWS:



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1. The Company and the Union agree to provide compensation to the individual complainants herein, for money lost as a result of their being deprived of or denied an opportunity to work at the Company's Clinton, Iowa construction project, in the total amount of \$28,600.00 being the difference between the total of their actual earnings between the 1st day of November, 1967 and the 30th day of April, 1968, and that amount they would have earned had such employment opportunity been realized for the equivalent period of time, inclusive of any travel or living allowances paid; and more particularly, in respect of Owen Barnes, the sum of \$6156.00; Arnold L. Blair, the sum of \$4022.00; Joseph Neblett, the sum of \$4122.00; Herbert Telfia, the sum of \$6156.00; Gifford Walker, the sum of \$4122.00; and Stanley Williams, the sum of \$4022.00.

2. The Company and the Union agree to forward individual letters of apology in a form approved of by the Commission, to each of the complainants herein.

3. The Company and the Union agree to forward letters of instruction and advice, in a form approved of by the Commission, to their employees and members, respectively, outlining their policy of compliance with the Ontario Human Rights Code. It is further agreed that an appropriate information system and programme will be established in cooperation with the Commission to ensure that all present and future employees and members are made aware of such policy.

4. The Company agrees to advise the Commission in advance of any of its activities in relation to projects of work in Ontario and <sup>significant</sup> employment recruitment undertaken by it or on its behalf in Canada and agrees to cooperate

*(Handwritten initials)*  
*(Handwritten signature)*



fully with the Commission to ensure that all such activities will be conducted in accordance with the policy and spirit of the Ontario Human Rights Code.

5. The Company further agrees to notify the Commission and the complainants herein of the next available job opportunities for which they may be qualified and to offer such employment to them on a fair and equal basis without regard to race, creed, colour, nationality, ancestry, place of origin and age.

6. The Union agrees that the complainants herein, so long as they remain members in good standing, shall be referred to available work opportunities for which they may be qualified on a fair and equal basis without regard to race, creed, colour, nationality, ancestry, place of origin and age.

7. The Company and the Union agree to forward written statements in a form approved of by the Commission, to the International Office of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, the Clinton Local of such Union, the Equal Employment Opportunities Commission, the New York and Iowa State Commissions for Human Rights and the Jamaican-Canadian Association, referring to this matter and setting forth the steps undertaken in settlement, together with assurances of fair employment policies and practices.

8. The Company and the Union further agree to forward a letter to the Chairman of the Commission setting forth their policies of compliance with the provisions of the Ontario Human Rights Code and assuring the Commission that



all applicants, employees or members will be treated fairly without regard to race, creed, colour, nationality, ancestry, place of origin or age.

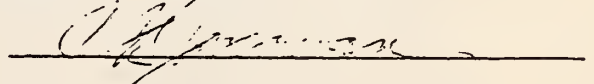
9. The Company and the Union further agree to cooperate fully with the Commission or its agents in any subsequent investigations or inquiries that may, from time to time, be undertaken in respect of the recruitment and employment practices of the Company or the employment or referral practices of the Union.

10. It is further agreed that copies of all the heretofore mentioned correspondence shall be forwarded to the Ontario Human Rights Commission.

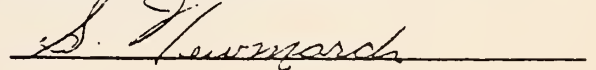
11. It is further agreed that this Memorandum of Agreement shall be treated in the same manner as a Ministerial Order made under the Ontario Human Rights Code.

IN WITNESS WHEREOF the Parties hereto have set their hands and seals this 29<sup>th</sup> day of April, A.D. 1968.

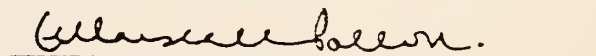
THE M. W. KELLOGG COMPANY



LOCAL UNION 46 OF THE UNITED ASSOCIATION  
OF JOURNEYMEN AND APPRENTICES OF THE  
PLUMBING AND PIPEFITTING INDUSTRY OF THE  
UNITED STATES AND CANADA



THE ONTARIO HUMAN RIGHTS COMMISSION



E. Marshall Pollock, Counsel.







Re Paragraph 2: Letter from Union to Complainants

Dear Sir and Brother:

Re: Local Union 46 of the United Association  
of Journeymen and Apprentices of the  
Plumbing and Pipefitting Industry of the  
United States and Canada and the Ontario  
Human Rights Commission on the complaint  
of...

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We would like to take this opportunity to reaffirm the non-discriminatory policy of this Union and to express our regret to you for any lack of vigilance on our part or any of our officials in permitting this discrimination to occur. We assure you that we will take every possible step to prevent such practices being repeated in the future.

In an effort to resolve this matter, we are cooperating with the Ontario Human Rights Commission and the M. W. Kellogg Company and have executed an agreement of settlement which is designed to reimburse you and the other complainants for your financial loss and to ensure that there will be no repetition of these most regrettable events.

Yours very truly,



Dear Mr. :

Re: The M. W. Kellogg Company and the  
Ontario Human Rights Commission  
on the complaint of ...

Permit us to apologize to you for any embarrassment or inconvenience caused you by this firm or any of its employees with reference to the incident related to complaints submitted to the Ontario Human Rights Commission by you and five other members of your Local Union.

We wish to advise you that it is our policy to treat all people fairly without regard to race, creed, colour, nationality, ancestry, place of origin or age.

In an effort to resolve this matter, we are cooperating with the Ontario Human Rights Commission and your Local Union and have executed an agreement of settlement which is designed to reimburse you and to assure you that every possible step will be taken to prevent a recurrence of these most regrettable circumstances.



Re Paragraph 3: Letter from the Company to employees  
and personnel engaged in the recruit-  
ment, hiring, selection, supervision,  
promotion and dismissal of employees

Dear Sir:

Re: The M. W. Kellogg Company and Local  
Union 46 of the United Association of  
Journeyman and Apprentices of the  
Plumbing and Pipefitting Industry of  
the United States and Canada and the  
Ontario Human Rights Commission

The M. W. Kellogg Company and the Toronto  
Local of the United Association of Journeyman and  
Apprentices of the Plumbing and Pipefitting Industry  
have been involved in the complaints of several Negro  
welders and fitters from Toronto, Ontario. These men  
allege that they were denied the opportunity to obtain  
employment in respect of this firm's project in Clinton,  
Iowa because of their race and colour.

This incident has given the management of  
this firm serious concern, particularly because of our  
policy to abide by and support the human rights legisla-  
tion of all jurisdictions in which we operate.

We have undertaken to ensure that all our  
employees and applicants for employment will be treated  
fairly, without regard to race, creed, colour, nationality,  
ancestry, place of origin or age. The primary considera-  
tion in recruitment, hiring, supervision, promotion,  
demotion or termination of employment must be the  
qualification and ability to perform the work in question.

(cont'd...ii)



The M. W. Kellogg Company maintains this policy not only because it is the law, but because we feel that this is a method by which we will obtain and keep the best available employees. We also consider such a policy to be vital to the development of a healthy economy and society. Accordingly, we urge all our employees to assist us in this regard and caution that any deviation from this policy will result in disciplinary action.





Dear Sir and Brother:

Re: Local Union 46 and the M. W. Kellogg  
Company and the Ontario Human Rights  
Commission

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This Local and the M. W. Kellogg Company of New York have been involved in the complaints of several of our members. These men, who are Negro, allege that they were denied the opportunity to obtain employment in respect of a project of this company in Clinton, Iowa, because of their race and colour.

This incident has given your Union serious concern, not only because it is the declared policy of this Local to abide by the Ontario Human Rights Code, but because we find discrimination of any sort to be repugnant to the very principles of trade unionism.

We have expressed our regret to our six brothers for any lack of vigilance on the part of this Local or its officials in permitting this discrimination to occur, and we have given them assurances that we will take every possible step to prevent such practices from being repeated in the future. In further resolution of these complaints, we are cooperating with the Ontario Human Rights Commission and the M. W. Kellogg Company and have executed an agreement of settlement which is designed to reimburse them for their financial loss and to ensure that there will be no repetition of these most regrettable events.



## II.

Accordingly, we urge all our members and officials to assist us in this regard and caution that any deviation from this policy will be dealt with firmly according to the provisions of the Constitution.



Re Paragraph 7: Form of Statement by the Company to the International Office of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada, the Clinton Local of such Union, the Equal Employment Opportunities Commission, the New York State Commission for Human Rights, the Iowa Civil Rights Commission, and the Jamaican-Canadian Association

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Gentlemen:

The M. W. Kellogg Company and Local Union 46 (Toronto) of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada have been involved in the complaints of several Negro welders and fitters from Toronto, Ontario. These men alleged that they were denied an opportunity to obtain employment in respect of the Company's project in Clinton, Iowa because of their race and colour.

This incident has given the management of this firm serious concern, particularly because of its policy to abide by and support human rights legislation in all jurisdictions in which we operate.

This firm has undertaken to ensure that all its employees and applicants for employment will be treated fairly without regard to race, creed, colour, nationality, ancestry, place of origin or age. Our primary consideration in recruitment, hiring, supervision, promotion, demotion and termination of employment is the qualification and ability to perform the work in question.

(Cont'd...page 2)



The M. W. Kellogg Company maintains this policy, not only because it is the law, but because we feel that it is a method by which we will obtain and keep the best available employees. We also consider such a policy to be vital to the development of a healthy economy and society.

In settlement of the specific complaints, we have entered into a Memorandum of Agreement with the Ontario Human Rights Commission and Local 46 which is designed to reimburse the six complainants for financial loss incurred as a result of this incident and to ensure that there is no repetition of the kind of difficulties encountered by them and involving Local 46 and this Company.





Re Paragraph 7: Form of Statement from Local Union 46 of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada to the Clinton Local of such Union, the M. W. Kellogg Company, the Equal Employment Opportunities Commission, the New York State Commission for Human Rights, the Iowa Civil Rights Commission, and the Jamaican-Canadian Association

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Gentlemen:

Local Union 46 (Toronto) of the United Association of Journeymen and Apprentices of the Plumbing and Pipefitting Industry of the United States and Canada and the M. W. Kellogg Company of New York have been involved in the complaints of several Negro welders and fitters from Toronto, Ontario. These men alleged that they were denied an opportunity to obtain employment in respect of the Company's project in Clinton, Iowa because of their race and colour.

This incident has given this union serious concern, not only because it is the declared policy of this Local to abide by the Ontario Human Rights Code, but because we find discrimination of any sort to be repugnant to the very principles of trade unionism.

We have undertaken to ensure that all our members and applicants for membership will be treated fairly without regard to race, creed, colour, nationality, ancestry, place of origin or age, as we recognize that the primary consideration in membership, job referral and employment is the qualification and ability to perform the work in question.

(cont'd...2)



This Local maintains this policy, not only because it is the law, but also because we consider it to be vital to the development of a healthy economy and society.

In settlement of the particular complaints, we have entered into a Memorandum of Agreement with the Ontario Human Rights Commission and the M. W. Kellogg Company which is designed to reimburse the six complainants for financial loss incurred as a result of this incident and to ensure that there is no repetition of the kind of difficulties encountered by them and involving the Company and this Local.



Re Paragraph 8: A letter from Local Union 46 of the United Association of Journeymen and Apprentices of the Plumbing and Pipe-fitting Industry of the United States and Canada to the Chairman of the Ontario Human Rights Commission

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Dr. Louis Fine  
Chairman  
The Ontario Human Rights Commission  
74 Victoria Street  
Toronto 1, Ontario

Dear Dr. Fine:

Local Union 46 of the United Association of Journeymen and Apprentices of the Plumbing and Pipe-fitting Industry of the United States and Canada wishes to assure you and the Ontario Human Rights Commission of its non-discriminatory policy.

As you are aware, we have executed a Memorandum of agreement dated in settlement of the formal complaints of Messrs. Walker, Williams, Barnes, Telphia, Neblett and Blair which name this Local and three of our officers as respondents.

We confirm that we will cooperate to the fullest extent with the Commission and its staff in any subsequent enquiries and activities designed to improve the awareness of our members in matters of human rights.



Dr. Louis Fine  
Chairman  
The Ontario Human Rights Commission  
74 Victoria Street  
Toronto 1, Ontario

Dear Dr. Fine:

The M. W. Kellogg Company wishes to assure  
you and the Ontario Human Rights Commission of its  
fair employment policy.

As you are aware, we have executed a Memorandum  
of Agreement dated \_\_\_\_\_ in settlement of  
the formal complaints of Messrs. Walker, Williams, Barnes,  
Telphia, Neblett and Blair which name this firm and three  
of our employees as respondents.

We confirm that we will cooperate to the  
fullest extent with the Commission and its staff in any  
subsequent enquiries and activities designed to improve  
the awareness of our employees in matters of human rights.

